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Signature: Grace Alicea

Grace Alicea

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:

Date: January 5, 2004

NACK

Serial No. 09/261,030

Group Art Unit: 2167

Filed: March 2, 1999

Examiner: Cuff, Michael A.

For: METHOD AND SYSTEM FOR MANAGING A CONSUMER TRANSACTION
SYSTEM WITH A MOBILE MANAGEMENT DEVICE

Mail Stop Appeal Brief – Patents
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REPLY BRIEF UNDER 37 C.F.R. §1.193(b)

Sir:

In responding the Appellant's Appeal Brief, the Examiner raises several new points of argument. With regard to the Examiner's statement that Column 4, lines 52-62 of Walker et al specifically states that the input and output devices for server 102 can be a PDA, Appellant respectfully disagrees. Column 4, lines 52-62, in fact specifically states that "an input device 124 (e.g., a keyboard) and an output device 126 (e.g., a display, a computer monitor, LCD (liquid crystal display) price tags, kiosks, shopping cart monitors, had held PDAs ("Personal Data

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Assistants”), electronic billboards/screens or receipt/coupon printers) interface with processor 112.” Appellant fails to see any specific statement by Walker et al that a PDA is an example of an input device for the Walker et al system, as presented by the Examiner.

The Examiner further states that the term “tied electronically” is not in the recited claims and that the reference by the Appellant to the term is not relevant. Appellant respectfully disagrees. Within the claims, Appellant recites the sending of override details from a POS device to a wireless management device, the sending of an override signal to a central controller from the wireless management device, and the signaling of a release of an override condition from a mobile manager system to a central controller system. As is well understood in the art, the recited sending and signaling denote electronic activities that ‘tie’ the elements of the POS device, central controller, and wireless management device/mobile manager system together. Thus, while the term “tied electronically” may not be used in that form in the claims, clearly, the recited terminology reflects more particularly how the electronic ties occur among the recited elements, and thus, the statements by the Appellant are believed relevant and valid. Further, the Examiner’s position regarding the term “at” merely limiting the receiving to be “at” or near the POS device is insufficient to support disregarding the rest of the recited steps which, as stated, clearly indicate electronic ties among the elements.

The Examiner adds another new point of argument when suggesting that the recited limitation of “utilizing the mobile manager system to remotely monitor and respond to the plurality of POS systems” could be met by simply text messaging a POS attendant via PDA. Appellant respectfully submits that the Examiner is adding limitations by asserting that a POS attendant has a PDA and that the remote monitoring and responding occurs by text messaging via PDAs. Appellant’s recited invention makes no recitation of such an arrangement of elements.

Rather, it is a POS system itself that is recited, within which, an override condition is identified, from which data for the override condition is sent to a central controller system, and for which a mobile manager system remotely monitors and responds, including signaling release of the override condition from the mobile manager system to the central controller system. Further, this position by the Examiner seems to support Appellant's assertion that the combination of references would merely result in replacement of the verbal communication of Swinamer et al with PDAs for communication, which does not teach or suggest the recited use of a mobile manager system to remotely monitor and respond to the plurality of POS systems, the POS system identifying an override condition during a customer transaction and sending data for the override condition to the central controller system, the central controller system transferring the data for the override condition to the mobile manager system, and the mobile manager system signaling release of the override condition to the central controller system.

In addition, the Examiner comments on an assertion by way of a quote, "the POS system identifying an override condition during a customer transaction and sending data ...", but Appellant fails to find the basis for this quoted reference in the Appeal Brief. As such, it is unclear what the context is for the quote to which the Examiner is referencing. Thus, Appellant respectfully submits that without clarification, Appellant cannot adequately comment on the Examiner's statements regarding this quote.

Lastly, Appellant respectfully disagrees with the Examiner's assumption that the Appellant has conceded that the combination of the references is proper. The Examiner appears to be responding to remarks not contained in the Appeal Brief but in a response to an Office Action and has done so without fully reflecting those remarks. Appellant stated that "Applicant fails to see how or why a PDA or wireless management device could or would be used in

Swimanager to signal a central controller with an override signal, since the manager communicates verbally and directly with a cashier or bagger from the master station. Further, as the Examiner points out, the PDAs are described in Walker et al. as output devices. There is nothing to teach or suggest that a PDA is used as an input device for signaling to a central controller, and more particularly, for signaling an override signal in response to an override condition occurring in a POS, as recited by the Applicant." Thus, these remarks reflect a lack of conceding that the combination of references is proper. Further, as presented in the Appeal Brief, even if the combination were considered as presented by the Examiner, Appellant fails to see a combination that teaches or suggests the recited invention.

In view of the foregoing, Appellant respectfully reiterates the request that the Board reverse the rejection of all the appealed Claims and find each of these Claims allowable.

This Reply Brief is being submitted in triplicate, and the Commissioner is authorized to charge \$330.00 to Deposit Account 50-0563 (IBM Corporation) for payment of fees associated with this communication.

Respectfully submitted,

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